

REMARKS

The present amendment is in response to the office action mailed February 8, 2005. Claim 1 has been amended to include the subject matter of originally filed claim 21, now cancelled. No new matter is added.

Applicants have reviewed carefully the instant office action and the applied art and respectfully disagree.

More particularly, claim 21, the subject matter of which has been incorporated into independent claim 1, stands rejected as obvious in light of the combination of three references, Collom, Buckley and Marshall. Applicants respectfully traverse.

As noted in the Office Action, Collom lacks any teaching of using multi-stranded coils having a fabric encasement. Collom only teaches the use of a twisted strand coil to attach the coil to the wire frame of the mattress. The proposed combination of Marshall with Collom will fail, as the pocketed coils taught by cannot be encased in a fabric material and still be used to secure the coil to the wire frame. It has to be admitted that this proposed combination fails, as it will yield an inoperable structure. Moreover, the Collom requires that the twisted strand coil attach to the wire frame, as such the "scope and content" of Collom, which must be considered, teaches away from encasing the twisted strand coils in a fabric material. And yet Collom is the primary reference upon which this rejection is based.

Buckley fails to bridge the gap between Collom and Marshall and the claimed subject matter. Buckley lacks any teaching of a mattress assembly having a stranded coil - and as such includes no teaching that the coils disclosed in Buckley could be used to form a mattress having a fabric encased multi-stranded coil.

It is telling that the examiner has not been able to find a single reference that teaches each element of amended claim 21, and instead has to rely upon a combination of three references to make out a rejection of obviousness. The office action asserts that since Collom teaches twisted coils in open coil mattresses, and since Marshall teaches pocketed spring coils in

mattresses and since Buckley teaches a multi-stranded coil, then the claimed subject matter of claim 1, now amended claim 1, is obvious. The reliance upon Collom, Marshall and Buckley is clearly a piecemeal rejection based on collecting together elements from the different patents but without a principal reference which broadly discloses all of the elements claimed. This is an improper ground for rejection, as noted by the CAFC including recently in GOLIGHT, Inc. v. Wal-Mart Stores, Inc. Fed. Cir. (2004).

For the above reasons the claims as now presented are deemed patentably distinguished over the applied art and allowance is respectfully requested.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. SMCY-P03-098 from which the undersigned is authorized to draw.

Dated: August 8, 2005

Respectfully submitted,

By 

John V. Bianco

Registration No.: 36,748

ROPES & GRAY LLP

One International Place

Boston, Massachusetts 02110-2624

(617) 951-7000

(617) 951-7050 (Fax)

Attorneys/Agents For Applicant